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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,349	11/25/2003	Louis G. Kovach II	021755-000100US	8056

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EXAMINER

LE, MARK T

ART UNIT PAPER NUMBER

3617

DATE MAILED: 12/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/724,349	Applicant(s) KOVACH ET AL.	
	Examiner Mark T. Le	Art Unit 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) 4-6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This communication is responsive to the amendments filed on October 25, 2005.
2. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over the known identification system described in section 10.1 of Digitrax Big Book of DCC, pages 113 and 114, in view of British reference 2,180,424.

The known identification system described in Digitrax book is similar to that recited in the instant claims. Said known identification system includes transponders and transponder detectors that are provided with IDs and connected to a computer functioning as a controller.

Regarding the instant claimed detectors that do not need to be connected to any track or roadway, as recited in instant claim 1, note the British reference; wherein, it suggests an alternative way to associate transponders and transponder detectors by using non-contact infrared communications. In view of the British reference, it would have been obvious to one skilled in the art to replace the communication connections between the transponders and the transponder detectors of said known identification system with non-contact infrared communications, in a manner similar to that taught in the British reference, so as to achieve expected advantages thereof, such as greater conveniences and flexibilities. Note that with such non-contact infrared communications, the transponder detectors of said known identification system do not need to be connected to any track or roadway as claimed.

Regarding claim 3, it is noted that the instant claimed arrangement is merely a reversal in the positions of the transponders and transponder detectors of said known

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identification system, as modified. Such reversal of parts is an obvious expedient in according to *in re Gazda*, 219 F.2d 449, 104 USPQ 400 (CCPA 1955) (Prior art disclosed a clock fixed to the stationary steering wheel column of an automobile while the gear for winding the clock moves with steering wheel; mere reversal of such movement, so the clock moves with wheel, was held to be an obvious expedient.). Accordingly, it would have been obvious to one skilled in the art to reverse the positions of the transponders and transponder detectors in said known identification system, as modified.

Regarding the instant claimed steps in method claims 1-3, note that the set up and operation of said known identification system, as modified, inherently require the method steps of claims 1-3.

3. Regarding Applicant's arguments directed to the amended feature of "without the need to be associated with any track or roadway, and the position detector elements being along a defined race course", recited in claim 1, note that the communication arrangement of the British reference does not have to be connected directly to a trackway so as to establish a communication therethrough; therefore, the communication arrangement of the British reference is readable as "without the need to be associated with any track or roadway", as broadly claimed. As to the instant claimed position detector elements being along a defined race course, note that in order for the detector device of the British reference to operate properly in the system described in the Digitrax book, the detector devices would have to be placed along the travel path or travel course of the associated vehicle(s) in order to detect the associated vehicle(s).

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Le whose telephone number is 571-272-6682. The examiner can normally be reached on Mon-Fri (2:00-8:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark T. Le  
Primary Examiner  
Art Unit 3617

12/08/05